THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.21911 OF 1995

DATED: 24-10-2006

BETWEEN

Smt.Therasa, W/o.Late H.Raj,
Aged about 33 years, Occ:Household,
R/o.New Mallapally, Hyderabad.

...PETITIONER

AND

The APSRTC, Rep.by its Managing Director/Ex-Officio Chairman
APSRTC Staff Benevolent-cum-Thrift Fund,
Mushirabad, Hyderabad, and others.

...RESPONDENTS

ORDER:

Heard the learned counsel for the petitioner.

It is the case of the petitioner that she is the wife of late H. Raj, who was appointed as Driver in the respondent organization on 03.11.1971 and whose services were regularized with effect from 01.09.1972. He rendered 18 years of unblemished service to the satisfaction of the respondent. It is stated that the petitioner got three unemployed sons and one daughter and her only source of livelihood was the earnings of her late husband. It is her further case that her husband was A1 category driver but due to defective vision he retired on medical grounds on 11.09.1989 and he was again re-appointed as cleaner on 06.06.1990 but by the time he received the order of re-appointment he was undergoing treatment from 11.04.1990 and died on 13.06.1990. Thus, it is the case of the petitioner that her husband died while in service and she is entitled to the entire benefits and other Staff Benevolent-cum-Thrift Fund (SBTF) and Employees Deposit Insurance

Linked Fund (EDLIF). It is submitted that she was paid other benefits except the money under SBTF and EDLIF scheme. It is stated that her husband enrolled as a member of SBTF, which is compulsory under the byelaws of the respondent corporation, and monthly subscription was paid towards the said fund regularly from the date of appointment till his death on 13.06.1990. Therefore, she is entitled to all the benefits.

Counter has been filed on behalf of the respondents stating that during the periodical medical examination the petitioner's husband was found medically unfit to the post of driver in A1 category and as per regulation 6(a) (4) of APSRTC Employees' (Service) Regulations 1964
if any employee is found medically unfit to discharge the duties of the post held by him he shall be retired from service on medical grounds. Therefore, he was retired from the services of corporation by proceedings dated 11.09.1989. It is further stated that the case of the petitioner's husband was considered for providing alternative post of cleaner and proceedings were issued on 06.06.1990. He was appointed as cleaner but he did not turn up to the office and did not submit his willingness to take further action. It is further stated that since the petitioner's husband died on 13.06.1990 after retirement the petitioner is not entitled to SBTF and EDLIF and the petitioner was paid all the retirement benefits.

It is the case of the petitioner that the respondent corporation implemented the APSRTC SBTF scheme by circular dated 25.10.1980 and the said fund is applicable to the employees of the respondent corporation who are on rolls as on 31.01.1980 and the object of the said fund was to provide social security and charity to the families of the deceased employee members of the Corporation and to provide support to the physically and permanently disabled employee members of the Corporation. Thus, it is the case of the petitioner that her husband is entitled to the benefit of the said fund.

In support of her contention it is also stated that the cases of similarly situated persons viz. M. Raju, E.57263, Diver of Hakimpet Depot also retired on medical grounds and thereafter died while undergoing treatment in hospital, though his case was initially rejected but the Vice-Chairman and Managing Director of the Corporation allowed his case in CMP order No.Grievances/5430/90 PD dated 31.01.1991 and similarly the case of R. Mohan Singh, ADC of Kukatpally earlier removed from service was also considered in CMP order No.P1/367(1)/82 PD dated 07.10.1985 and the said facts have not been denied in the counter.

I am of the opinion that the petitioner's husband retired from the service due to permanent disability on medical grounds and while under going treatment his case for re-appointment as cleaner was considered and orders were passed on 06.06.1990 providing alternative employment but unfortunately he died on 13.06.1990 i.e. subsequent to the order of re-appointment, therefore, it cannot be said that the petitioner's husband is not entitled to SBTF as per the said scheme.

In view of the aforesaid facts and circumstances of the case,
I am of the opinion that the petitioner is entitled to the benefit of the SBTF and EDLIF scheme.

The writ petition is accordingly allowed as prayed for. There shall be no order as to costs.

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V. ESWARAIAH, J

October 24, 2006
DSK